



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/689,372 | 10/20/2003 | Douglas Sean Morris | 47869/265209 | 2852 |

826 7590 12/20/2004

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

| |
|----------|
| EXAMINER |
|----------|

ROYAL, PAUL

| | |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

3611

DATE MAILED: 12/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/689,372

Applicant(s)

MORRIS, DOUGLAS SEAN

Examiner

Paul Royal

Art Unit

3611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7,9-22 and 24-42 is/are rejected.
- 7) ☒ Claim(s) 8 and 23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 10/20/03
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement (IDS) submitted on 10/20/03 has been considered by the examiner. Note, sheet 2 of the IDS did not contain any listing of documents and no documents to be considered were identified on sheet

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-7, 9-11, and 13-22, 24-25, 29-30, 34 are rejected under 35

U.S.C. 102(b) as being anticipated by Cornou (US 4,362,244).

Cornou teaches a nestable storage container, comprising:

a bottom wall (Btmwall, see Examiner's annotated Figure 3);

an angled peripheral wall (24,25,26,6) having inner and outer surfaces, the peripheral wall having a top end and a bottom end that adjoins the bottom wall, the peripheral wall and bottom wall defining a storage area, and wherein the peripheral wall extends from the bottom wall at a predetermined angle such that the container is stackable (see column 3, lines 18-29);

Art Unit: 3611

wherein the peripheral wall (24,25,26,6) includes a lip (1,2) extending therefrom, the lip extending a distance greater than the wall of the display window from the outer surface of the peripheral wall;

the peripheral wall (24,25,26,6) includes a flange portion (9) extending outwardly, the display window extending from the flange portion of the peripheral wall;

a display window (10,9, 8,7,7a) extending from the outer surface of the peripheral wall, the display window (10,9, 8,7,7a) having a wall (10) spaced away from the outer surface of the peripheral wall to define a gap (31) there-between; and

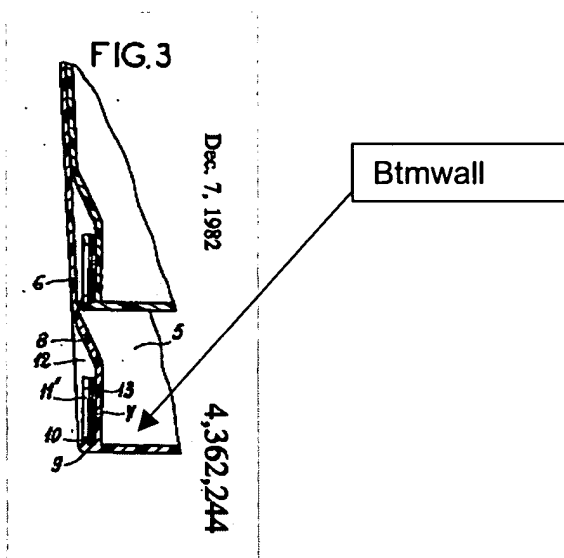
at least one reusable display token (13) adapted for removable insertion into the gap (31) defined by the display window and the peripheral wall, the at least one display token being visible through at least one of the wall of the display window and the peripheral wall.

For claim 5, note Cornou teaches the container is molded from synthetic resin which is understood to include, inter alia, polyethylene.

For claims 6 and 7, note the elements which form the display window also form an opening which is at least partially transparent.

For claims 9 and 10, note the display window formed by elements 10,9, 8,7,7a are integrally attached to the peripheral wall.

For claim 11, note the display window wall defines an angle between the wall of the display window and the peripheral wall, see column 3, lines 64-68.



Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 12 and 26-28, 31-33, 35-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cornou, as respectively applied to claims 1 and 13.

Cornou, as respectively applied to claims 1 and 13 teaches a storage container having the claimed limitations except at least one additional display windows extending from the peripheral wall and specific display indicia.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the storage container of Cornou to include at least one additional display windows extending from the peripheral wall, because mere

Art Unit: 3611

ordinary skill in the art at the time of the invention to whatever indicia is desired by the user since it would only depend on the intended use of the container and the desired information to be displayed.

Further, for claims 36-42, the recited method of storing goods is understood to be a well known method of using the nestable container with indicia holder of Cornou because the container is disclosed as useable in a variety of purposes, such as agriculture, food processing, commerce and industry which are understood to utilize the recited steps.

Allowable Subject Matter

4. Claims 8 and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. The following is a statement of reasons for the indication of allowable subject matter: the prior art does not show a storage container as recited in the independent claims and as applicable to the dependent claims wherein the display window includes a drainage channel in communication with the gap defined by the display window wall and the peripheral wall.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bartholomew teaches a tote box. Hartman teaches a

Art Unit: 3611

display window includes a drainage channel in communication with the gap defined by the display window wall and the peripheral wall.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bartholomew teaches a tote box. Hartman teaches a container with a card holding structure. Mauser teaches a stackable box. Gauche teaches a label holder. Clipson et al. teaches a storage bin with a card holder. Kady teaches a rolling caddy. Smith teaches a pet accessory carrying case.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Royal whose telephone number is 703-308-8570. The examiner can normally be reached on 8:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley D. Morris can be reached on 703-308-0629. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR

Art Unit: 3611

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



P. Royal
12/12/04

Paul Royal
Examiner
Art Unit 3611



LESLEY D. MORRIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600